IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1096 OF 2006

The Chairman, Vitthal
Prasarak Mandal, and Anr. .. Appellant.

Vs.

Suman Balkrishna Mule & Ors. .. Respondents.

Mr.Siddharth Karpe i/b Y.K.S.Legal for the appellant.
Mr.Ajit Kenjale for respondent no.1.

CORAM : D.B.BHOSALE, JJ.
DATED : 1ST AUGUST, 2007.

P.C.:

. Heard learned counsel for the parties.

2. The appellants are original defendant nos.3 and 4. They have impugned the judgment and order dated 11.11.2005 rendered by the first appellate court in the appeal filed by original defendant no.2. The appellate court has partly allowed the appeal and modified the operative part of the order 31.7.2002 passed by the trial Court. By this order the defendants were jointly and severally directed to pay the salary and monetary benefits as per Government Rules to the plaintiffs. The appellate court while allowing the appeal directed the appellants only to pay the plaintiffs' the salary and other monetary benefits. The appellants had not challenged the order of the trial Court. Feeling aggrieved by the directions to the appellants only to pay the plaintiffs' they have filed the present appeal.

3. Mr.Karpe, learned counsel for the appellants submits that he has instructions to make a statement on behalf of the appellants that they are ready to pay Rs.2,50,000/- to respondent no.1 as full and final settlement. He further submits that the appellants have already deposited Rs.2,00,000/- in the trial Court in pursuance of the order passed by this court on 27.11.2006 on civil application no.1482 of 2006. On instructions, he submits that the appellants are prepared to pay another Rs.50,000/- to respondent no.1. Mr.Kenjale, learned counsel for respondent no.1, on instructions, from respondent no.1, who is present in the court, states that she is prepare to accept Rs.2,50,000/- as full and final settlement. He further submits that respondent no.1 be given an opportunity to approach the concerned authority with appropriate application seeking retiral benefits. In view of the submissions advanced by the learned counsel for the parties this second appeal stands disposed of by the following order:

(i) Respondent No.1 is allowed to withdraw the amount of Rs.2,00,000/- deposited by the appellants in the trial Court, in pursuance of the order dated 27.11.2006, unconditionally. This amount shall be paid to respondent no.1 by demand draft or account

payee cheque.

(ii) In addition to the aforesaid amount of Rs.2,00,000/- the appellant shall pay Rs.50,000/- by demand draft to respondent no.1 within a period of six weeks from today. If the appellants fail to pay the amount of Rs.50,000/- within the time stipulated it will be open for respondent no.1 - plaintiff to execute the decree against the appellants. In that eventuality the amount of Rs.2,00,000/- may be adjusted against the decree.

(iii) It will be open for respondent no.1 to make a representation to the concerned authority seeking retiral benefits. If such a representation is made, same may be considered within a period of 12 weeks from the date of its receipt. While granting liberty I shall not be understood to have expressed any opinion as to her right of getting retiral benefits. The concerned authority shall decide her representation on merits in accordance with law.

(iv) On receipt of the amount of Rs.2,50,000/- by respondent no.1, the impugned judgment shall render ineffective.

. With these observations the second appeal is disposed of. All concerned to act on an authenticated copy of this order duly issued by the Registry.

(D.B.BHOSALE, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1096 OF 2006
WITH
CIVIL APPLICATION NO. 1483 OF 2006
IN
SECOND APPEAL NO.1096 OF 2006

The Chairman, Vitthal
Prasarak Mandal, and Anr. .. Appellant.
Vs.
Suman Balkrishna Mule & Ors. .. Respondents.

Mr.Siddharth Karpe i/b Y.K.S.Legal for the appellant.
Mr.Ajit Kenjale for respondent no.1.

CORAM : D.B.BHOSALE, JJ.
DATED : 1ST AUGUST, 2007.

P.C.:

. Heard learned counsel for the parties.

2. The appellants - original defendant nos.3 and 4 have impugned the judgment and order dated 11.11.2005 by which the appeal filed by original defendant no.2 was partly allowed and the judgment and decree dated 31.7.2002 passed by the trial Court in regular civil suit No.217 of 2000 has been confirmed subject to modification. In view of the modifications of the judgment of the trial court, respondent no.1-plaintiff is entitled to get her salary and other monetary benefits from the appellants. Being aggrieved by the modification the appellants have filed this appeal challenging the judgment of the appellate court. The appellants had not challenged the judgment and decree dated

31.7.2002 passed by the trial Court.